

Senate, April 14, 1998. The Committee on Finance, Revenue and Bonding reported through SEN. LOONEY, 11th DIST., Chairman of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE EXAMINATION OF ELECTRONIC DATA PROCESSING SERVICERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 36a-17 of the general statutes is
2 repealed and the following is substituted in lieu
3 thereof:

4 (a) The commissioner, in the commissioner's
5 discretion, may make such public or private
6 investigations or examinations within or outside
7 this state, concerning any person subject to the
8 jurisdiction of the commissioner, as the
9 commissioner deems necessary to carry out the
10 duties of the commissioner.

11 (b) ANY CONNECTICUT BANK WHICH CAUSES OR HAS
12 CAUSED ANY ELECTRONIC DATA PROCESSING SERVICES TO
13 BE PERFORMED FOR SUCH CONNECTICUT BANK EITHER ON
14 OR OFF ITS PREMISES BY AN ELECTRONIC DATA
15 PROCESSING SERVICER SHALL ENTER INTO A WRITTEN
16 CONTRACT WITH SUCH SERVICER. SUCH CONTRACT SHALL
17 SPECIFY THE DUTIES AND RESPONSIBILITIES OF THE
18 CONNECTICUT BANK AND SUCH SERVICER AND PROVIDE
19 THAT SUCH SERVICER SHALL ALLOW THE COMMISSIONER TO
20 EXAMINE SUCH SERVICER'S BOOKS, RECORDS AND
21 COMPUTER SYSTEMS IN ACCORDANCE WITH THIS
22 SUBSECTION, IF REQUIRED BY THE COMMISSIONER. THE

23 CONNECTICUT BANK SHALL PROMPTLY SEND A COPY OF
24 SUCH CONTRACT TO THE COMMISSIONER. THE
25 COMMISSIONER MAY EXAMINE THE BOOKS, RECORDS AND
26 COMPUTER SYSTEMS OF ANY ELECTRONIC DATA PROCESSING
27 SERVICER THAT PERFORMS ELECTRONIC DATA PROCESSING
28 SERVICES FOR A CONNECTICUT BANK, IF SUCH SERVICES
29 SUBSTANTIALLY IMPACT THE OPERATIONS OF THE
30 CONNECTICUT BANK AS DETERMINED BY THE
31 COMMISSIONER, IN ORDER TO (1) DETERMINE WHETHER
32 SUCH SERVICER HAS THE CAPACITY TO PROTECT THE
33 CONNECTICUT BANK'S CUSTOMER INFORMATION AND (2)
34 ASSESS SUCH SERVICER'S POTENTIAL FOR CONTINUED
35 SERVICE. THE COMMISSIONER MAY ASSESS A FEE OF ONE
36 HUNDRED FIFTY DOLLARS PER DAY PLUS COSTS FOR EACH
37 EXAMINER WHO CONDUCTS SUCH EXAMINATION, THE TOTAL
38 COST OF WHICH THE COMMISSIONER MAY ALLOCATE ON A
39 PRO RATA BASIS TO ALL CONNECTICUT BANKS UNDER
40 CONTRACT WITH SUCH SERVICER.

41 [(b)] (c) For the purpose of any
42 investigation, examination or proceeding under
43 this title the commissioner may administer oaths
44 and affirmations, subpoena witnesses, compel
45 attendance of witnesses, take evidence, require
46 written statements and require the production of
47 any records which the commissioner deems relevant
48 or material. The commissioner may require that
49 certified copies of any such records be provided
50 to the commissioner at the commissioner's office.

51 [(c)] (d) Any person who is the subject of
52 any such investigation, examination or proceeding
53 shall make its records available to the
54 commissioner in readable form; provide personnel
55 and equipment necessary, including, but not
56 limited to, assistance in the analysis of
57 computer-generated records; provide copies or
58 computer printouts of records when so requested;
59 furnish unrestricted access to all areas of its
60 principal place of business or wherever records
61 may be located; and otherwise cooperate with the
62 commissioner.

63 [(d)] (e) The superior court for the judicial
64 district of Hartford-New Britain*, upon
65 application of the commissioner, may issue to any
66 person refusing to obey a subpoena issued pursuant
67 to subsection (b) of this section an order
68 requiring that person to appear before the
69 commissioner or any officer designated by the
70 commissioner to produce records so ordered or to

71 give evidence concerning the matter under
72 investigation or in question. Failure to obey the
73 order of the court may be punished by the court as
74 a contempt of court.

75 [(e)] (f) A licensee under section 36a-489,
76 36a-511, ~~36a-536~~, 36a-555, AS AMENDED, 36a-581,
77 36a-600, 36a-633, 36a-656 or 36a-801, shall pay to
78 the commissioner the actual cost of any
79 examination of the licensee, as such cost is
80 determined by the commissioner. Failure by the
81 licensee to pay such cost within thirty days of
82 receipt of demand from the commissioner shall
83 automatically suspend the license until the costs
84 are paid.

85 [(f)] (g) As used in this section, "records"
86 includes, but is not limited to, books, papers,
87 correspondence, memoranda, agreements, diaries,
88 logs, notes, ledgers, journals, visual, audio,
89 magnetic or electronic recordings, computer
90 printouts and software, and any other documents.

91 BA COMMITTEE VOTE: YEA 14 NAY 4 JFS C/R FIN
92 FIN COMMITTEE VOTE: YEA 42 NAY 0 JF

* * * * *

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

* * * * *

FISCAL IMPACT STATEMENT - BILL NUMBER sSB 231

STATE IMPACT	Workload Increase, Within Normal Budgetary Resources, Revenue Gain (Banking Fund), see explanation below
MUNICIPAL IMPACT	None
STATE AGENCY(S)	Department of Banking, Judicial Department

EXPLANATION OF ESTIMATES:

The bill requires Connecticut chartered banks that outsource electronic data processing services to enter into a written contract with the servicer. It requires the contract to specify the bank's and the servicer's responsibility. It requires the servicer to allow the Banking Commissioner to examine its books, records and computer systems. It lets the Commissioner assess a fee of \$150 per day plus costs for each examiner who conducts an examination.

There is a workload increase for the Department of Banking associated with examining the servicer's books, records and computer systems. This responsibility can be handled within budgetary resources.

There is a revenue gain to the Banking Fund as a result of the fee of \$150.00 per day being assessed by the Commissioner to all banks under contract to the servicer. The amount of revenue gain is indeterminate. The number of days examiners will spend reviewing servicers cannot be determined.

According to this bill, the court's involvement is initiated by the Banking Commissioner's petition to the court to issue a subpoena if any person refuses to cooperate in an investigation. If the person ignores the court order, he may be charged with contempt of court. The number of cases referred by the Banking Commissioner is anticipated to be low, therefore resulting in a minimal workload increase for the court system.

The Judicial Department recorded the following activity related to contempt of court: during calendar year 1996, one offense of contempt of court was recorded, yielding revenues of \$300. During calendar year 1997, there were 2 inmates charged with contempt of court.

* * * * *

OLR BILL ANALYSIS

sSB 231

AN ACT CONCERNING THE EXAMINATION OF ELECTRONIC DATA PROCESSING SERVICERS

SUMMARY: This bill requires a Connecticut-chartered bank that outsources electronic data processing services to enter into a written contract with the servicer, regardless of whether the services are performed on or off the bank's premises. It requires the contract to specify the bank's and the servicer's duties and responsibilities and to provide that the servicer allows the banking commissioner to examine its books, records, and computer systems, if the commissioner requires it. The bank must promptly send the commissioner a copy of the contract. If the commissioner determines that the services have a substantial impact on the bank's operations, the bill allows him to undertake such an examination in order to (1) determine whether the servicer can protect the bank's customer information and (2) assess the servicer's potential for continued service.

The bill lets the commissioner assess a fee of \$150 per day plus costs for each examiner who conducts such an examination and allocate these total costs on a pro rata basis to all Connecticut banks under contract with the servicer.

EFFECTIVE DATE: October 1, 1998

COMMITTEE ACTION

Banks Committee

Joint Favorable Substitute Change of Reference
Yea 14 Nay 4

Finance, Revenue and Bonding Committee

Joint Favorable Report
Yea 42 Nay 0